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By: ~~Delegate Hubbard~~ Delegates Hubbard, Hurson, Hammen, Benson, Boteler, Boutin, Bromwell, Costa, Donoghue, Elliott, Goldwater, Kach, Leopold, Madaleno, Mandel, McDonough, Morhaim, Murray, Nathan-Pulliam, Oaks, Pendergrass, Rosenberg, Rudolph, Smigiel, V. Turner, and Weldon

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 24, 2004

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Money Follows the Individual Accountability Act**

3 FOR the purpose of requiring a nursing facility, under certain circumstances, to refer  
4 a resident to the Department of Health and Mental Hygiene or its designee for  
5 assistance in obtaining certain home- and community-based services; requiring  
6 the Department or its designee to review certain quarterly assessments to  
7 identify individuals indicating a preference to live in the community; requiring  
8 the Department or its designee to provide certain residents ~~referred or identified~~  
9 with certain information, including certain rights, and with certain assistance,  
10 including assistance in moving from a nursing facility to a certain  
11 community-based setting; requiring a social worker to provide information  
12 regarding how to obtain certain services and including a certain list; requiring  
13 certain information to be made available to a resident at a certain time; altering  
14 the format for the information; repealing a requirement for a social worker to  
15 provide a certain referral; repealing certain requirements imposed on certain  
16 long-term care case managers; altering the proof that certain employees or  
17 representatives may be required to provide; requiring the Department and its  
18 designee to provide, on or before a certain date, a certain report to the Governor  
19 and the General Assembly; repealing certain reporting requirements; and  
20 generally relating to home- and community-based services for residents of  
21 nursing facilities.

22 BY repealing and reenacting, with amendments,  
23 Article - Health - General

1 Section 15-135  
2 Annotated Code of Maryland  
3 (2000 Replacement Volume and 2003 Supplement)

4 BY repealing  
5 Chapter 303 of the Acts of the General Assembly of 2003  
6 Section 3

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
8 MARYLAND, That the Laws of Maryland read as follows:

9 **Article - Health - General**

10 15-135.

11 (a) (1) In this section the following words have the meanings indicated.

12 (2) "Nursing facility" has the meaning stated in § 15-132(a)(10) of this  
13 subtitle.

14 (3) "Resident" means an individual receiving long-term care in a nursing  
15 facility.

16 (b) (1) A social worker shall provide to [a] EACH resident [a one-page]  
17 information [sheet] that:

18 (i) Explains the availability of services under home- or  
19 community-based waiver programs in the State that could enable the resident to live  
20 in the community;

21 (ii) Explains that if the resident's care is partially or fully  
22 reimbursed by the Program, the resident may be able to receive long-term care  
23 services in the community instead of in the nursing facility;

24 (iii) Provides information regarding [the referrals to residents that  
25 may provide additional information,] HOW TO OBTAIN case management services[,]  
26 or evaluation services related to home- and community-based waiver programs or  
27 other options for receiving long-term care services in the community; [and]

28 (iv) [Is] IF WRITTEN, IS in large, easily legible type and in formats  
29 accessible to the resident; AND

30 (V) INCLUDES A LIST OF LEGAL, ADVOCACY, AND GOVERNMENT  
31 AGENCY RESOURCES.

32 (2) The Department, in consultation with the State agencies that  
33 implement the home- and community-based services programs, shall prepare,  
34 distribute, and update as necessary the [one-page] information [sheet] required  
35 under paragraph (1) of this subsection.

1 (3) The [one-page] information [sheet] required under paragraph (1) of  
2 this subsection shall be made available to the resident:

3 (i) Upon admission or discharge of the resident; and

4 (ii) [At least one time annually at the request of the resident]  
5 **WHEN THE RESIDENT INDICATES A PREFERENCE TO LIVE IN THE COMMUNITY,**  
6 **EITHER DURING THE RESIDENT'S QUARTERLY ASSESSMENT OR AT ANY OTHER TIME.**

7 (4) The social worker shall request that the resident sign an  
8 acknowledgment of receipt of the information [sheet] provided by the social worker  
9 that shall be kept in the resident's medical record.

10 [(c) If a resident is unable to contact outside entities without assistance, or a  
11 resident requests assistance, the social worker shall refer the resident to persons  
12 from the Department that can provide information or case management services that  
13 will enable the resident to learn about receiving long-term care services in the  
14 community.

15 (d) The long-term care case manager at a local department of social services  
16 shall:

17 (1) Provide assistance to residents and make referrals to persons that  
18 may help in obtaining additional information, case management services, or  
19 evaluation services related to Medical Assistance waiver programs or other options  
20 for receiving long-term care services in the community;

21 (2) Provide the same information to the resident's health care  
22 representative or legal guardian; and

23 (3) Ensure that a copy of the information provided is kept in a resident's  
24 client file.

25 (e) When a resident indicates an interest in receiving long-term care services  
26 in the community, the long-term care case manager at a local department of social  
27 services shall refer the resident within 10 days to persons that will provide  
28 information or case management services that will enable the resident to consider the  
29 options that may be available and apply for benefits if the resident chooses.]

30 (C) **IF A RESIDENT INDICATES AN INTEREST IN OR A PREFERENCE FOR LIVING**  
31 **IN THE COMMUNITY, THE NURSING FACILITY SHALL REFER THE RESIDENT TO THE**  
32 **DEPARTMENT, OR THE DEPARTMENT'S DESIGNEE, FOR FURTHER ASSISTANCE.**

33 (D) **THE DEPARTMENT, OR THE DEPARTMENT'S DESIGNEE, SHALL REVIEW**  
34 **THE QUARTERLY ASSESSMENTS SUBMITTED TO THE CENTER FOR MEDICARE AND**  
35 **MEDICAID SERVICES OF THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES**  
36 **BY EACH NURSING FACILITY THAT PARTICIPATES IN THE PROGRAM TO IDENTIFY**  
37 **INDIVIDUALS INDICATING A PREFERENCE TO LIVE IN THE COMMUNITY.**

1 (E) IF A RESIDENT WHO WOULD QUALIFY FOR HOME AND  
2 COMMUNITY-BASED WAIVER SERVICES UNDER § 15-137 OF THIS SUBTITLE  
3 INDICATES AN INTEREST OR PREFERENCE FOR LIVING IN THE COMMUNITY, THE  
4 DEPARTMENT, OR THE DEPARTMENT'S DESIGNEE, SHALL PROVIDE THE RESIDENT  
5 RESIDENTS REFERRED OR IDENTIFIED UNDER SUBSECTIONS (C) AND (D) OF THIS  
6 SECTION WITH:

7 (1) ADDITIONAL INFORMATION REGARDING HOME- AND  
8 COMMUNITY-BASED SERVICES, INCLUDING SERVICES AVAILABLE UNDER A  
9 MEDICAL ASSISTANCE WAIVER AND THEIR RIGHT TO ACCESS SERVICES UNDER §  
10 15-137 OF THIS SUBTITLE; AND

11 (2) ASSISTANCE IN:

12 (I) COMPLETING ANY APPLICATION FORMS OR PROCESS, AS  
13 NEEDED; AND

14 (II) MOVING FROM A NURSING FACILITY TO A COMMUNITY-BASED  
15 SETTING APPROPRIATE TO THE RESIDENTS' NEEDS AND EXPRESSED WISHES.

16 (f) (1) Subject to paragraph (3) of this subsection, employees or  
17 representatives of protection and advocacy agencies and of centers for independent  
18 living shall have reasonable and unaccompanied access to residents of public or  
19 private nursing facilities in the State that receive reimbursement under the Program  
20 for the purpose of providing information, training, and referral to programs and  
21 services addressing the needs of people with disabilities, including participation in  
22 programs that would enable individuals with disabilities to live outside the nursing  
23 facility.

24 (2) Employees or representatives of protection and advocacy agencies  
25 and of centers for independent living shall maintain the confidentiality of the  
26 residents and may not disclose the information provided to a resident, except with the  
27 express consent of the resident or the resident's legal guardian or health care  
28 representative.

29 (3) Public or private nursing facilities may require the employees or  
30 representatives of protection and advocacy agencies and of centers for independent  
31 living to provide proof of their employment [and training] before authorizing the  
32 access required under paragraph (1) of this subsection.

33 (G) ON OR BEFORE JANUARY 1 OF EACH YEAR, THE DEPARTMENT, AND THE  
34 DEPARTMENT'S DESIGNEE, SHALL REPORT TO THE GOVERNOR AND THE GENERAL  
35 ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE,  
36 ON:

37 (1) THE DEPARTMENT'S EFFORTS TO PROMOTE HOME- AND  
38 COMMUNITY-BASED SERVICES;

